IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.2328 OF 2005

Sanjay Pandurang Wadkar & Ors. ...Petitioners.
Vs.
Sub Divisional Engineer, PWD, Malvan & Ors. ...Respondents.
....
Mr. G. H. Keluskar for the Petitioners.
Mrs. Sushma Bhende, AGP for Respondent Nos.1 to 3.
.....

CORAM : A.P. SHAH AND
DR.D.Y.CHANDRACHUD, JJ.

July 18, 2005.

P.C.:

The Petitioners are carrying on business in stalls situated on the Kasal-Malvan Road. They have challenged in these proceedings, notices issued by the First Respondent on 19th March 2005, calling upon the Petitioners to remove encroachments that have been made by them. According to the Petitioners, the road in question, was originally in the category of a National Highway, but due to the construction of a bypass, it has ceased to be so. Moreover, it has been submitted that the First Respondent has constructed two bridges on Karli Creek - one at

Parule Chipi, Taluka Vengurla and another at Nerurpar, Taluka Kudal, - thereby connecting Vengurla and Kudal Talukas with Malvan Taluka by road. It has been urged that because of the construction of these bridges, the distance between Malvan and Vengurla, and Malvan and Kudal respectively has substantially decreased and the vehicular traffic which was initially passing via Kasal, started plying via Parule Chipi or Nerurpar. Hence it is urged that the road now falls under the category of a village road connecting the National highway and Kasal-Malvan Road.

2. An affidavit in reply has been filed by the Sub Divisional Officer, Public Works Sub Division, Malvan, District Sindhudurg. It has been stated that the road in question, Malvan Kasal Road, is part of State Highway 118 and a total length of 33 kms is under the possession of the Public Work Sub Division for maintenance and repairs. The Public Works Division has found that the Petitioners have encroached on the roadside land by putting up stalls which block the vehicular traffic and cause a nuisance on the State Highway. It has been averred that the road in Kasal Bazaar Peth

is part of Malvan Kasal Road (State Highway 118). The Road was improved in the year 2000-01 and the width of 3.75 meters was increased to 5.50 meters. It has been stated that notices were issued by the Department from time to time to the Petitioners to remove their unauthorised encroachments, but no heed has been paid thereto.

3. We have perused the affidavit in reply which has been filed by the Respondents and we have heard Counsel appearing on behalf of the parties. From the affidavit that has been filed in reply to the petition, it is evident that the road in question, is part of State Highway 118 which is being maintained by the Public Works Sub Division, Malvan. The Petitioners have been found to have made encroachments by unauthorisedly putting up stalls by the side of the road. These encroachments obstruct vehicular traffic and cause a nuisance in the area. In the circumstances, we do not find any justification to intervene in these proceedings under Article 226 of the Constitution. There is no merit in the petition. The petition is accordingly dismissed. There shall be no order as

to costs.

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